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10/674,275

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EXAMINER

QUARTERMAN, KEVIN J

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/674,275
Filing Date: September 29, 2003
Appellant(s): FECHTER ET AL.

Paul Wille
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 17 March 2008 appealing from the Office action mailed 16 October 2007.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8-9, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Burrows (US 6,271,631).

Regarding independent claim 1, Burrows discloses (see at least Figure 7) an article having an electroluminescent panel (701A thru 701D) as a first surface of the article, the article characterized in that the panel is an integral part of the article. The Examiner notes that the method of providing the panel as an integral part of the article via injection molding has not been given any patentable weight, since the patentability of a device does not depend on its method of production—i.e., injection molding (MPEP § 2113). Thus, Burrows discloses (see at least Figure 7) the electroluminescent panel as an integral part of the article as claimed in the instant application.

Regarding claim 2, Burrows discloses the panel emitting light outwardly from the first surface (col. 11, ln. 22-40).

Regarding claim 3, Burrows discloses the panel emitting light into the article (col. 11, ln. 22-40).

Regarding claim 4, Burrows discloses the first surface being three-dimensional (col. 11, ln. 19-21).

Regarding claim 8, Burrows discloses the article further including a graphics layer (col. 4, ln. 13-15).

Regarding claim 9, Burrows discloses a graphics layer adjacent a second surface of the article (col. 4, ln. 13-15).

Regarding independent claim 17, Burrows discloses (see at least Figure 7) an instrument cluster having at least one electroluminescent lamp (701A-D) as a first surface of the cluster, the instrument cluster characterized in that the lamp is an integral part of the cluster. The Examiner notes that the method of providing the lamp as an integral part of the cluster via molding has not been given any patentable weight, since the patentability of a device does not depend on its method of production—i.e., molding (MPEP § 2113). Thus, Burrows discloses (see at least Figure 7) the lamp as an integral part of the cluster as claimed in the instant application.

Regarding claim 18, Figure 7 of Burrows also shows a plurality of electroluminescent lamps, wherein at least some of the lamps include a graphics layer (col. 4, ln. 13-15).

Regarding independent claim 19, Figure 7 of Burrows shows a cellular telephone having an electroluminescent panel (701A-D) as a first surface of the telephone, the telephone characterized in that the panel is an integral part of the telephone. The Examiner notes that the method of providing the panel as an integral part of the telephone via molding has not been given any patentable weight, since the patentability

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of a device does not depend on its method of production—i.e., molding (MPEP § 2113).

Thus, Figure 7 of Burrows shows the panel as an integral part of the telephone as claimed in the instant application.

(10) Response to Argument

Applicant argues that something stuck on the surface of an article does not become an “integral part” of the article. Applicant supports this by noting that a parking sticker is not an integral part of a windshield just because it is stuck on it. The Examiner notes that applicant’s claims recite the panel being an integral part of the article, the article may be, for example, a telephone or instrument panel. The term “integral” is defined as “consisting or composed of parts that together constitute a whole; constituent or component” (www.dictionary.com). In applicant’s example, the parking sticker may not be an integral part of the windshield, but the windshield is an integral part of the vehicle—i.e. the vehicle would be applicant’s claimed article, while the windshield (and also the doors, tires, steering wheel, etc.) would be applicant’s claimed “integral part” of the vehicle, or article.

Applicant also argues that the Examiner ignores the recitation “as a result of injection molding” in the claims. The Examiner noted that the patentability of a product does not depend on its method of production. If the product is the same as a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP § 2113). Thus, the Examiner did not give “as a result of injection molding” any patentable weight.

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Thus, the Examiner holds that Burrows teaches, in Figure 7, an article (phone) with a panel as a first surface of the article. Since the panel is a component that makes up the article (phone) as a whole, the panel of Burrows is an integral part of the article (phone) as claimed in the instant application.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kevin Quarterman

/K. Q./

Examiner, Art Unit 2889

Conferees:

/Toan Ton/

/Ricky L. Mack/
Supervisory Patent Examiner, Art Unit 2873